IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1281 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : YES

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

HASMUKHRAI R BHADIYADRA

Versus

DISTRICT DEVELOPMENT OFFICER

Appearance:

1. Special Civil Application No. 1281 of 1992

MRS SANGEETA N PAHWA for Petitioner No. 1

MR KH BAXI for Respondents No. 1 & 2.

Ms. Shraddha Trivedi, AGP for respondent No.3.

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 05/12/2001

ORAL JUDGEMENT

Heard learned advocate Ms. S.N. Pahwa for the petitioner; Mr. K.H. Baxi, learned advocate for respondents no.1-2 and Ms. Shraddha Trivedi, learned AGP for respondent No.3.

In this petition, rule was issued by this Court on 14.2.1994 and it was made returnable in the month of July, 1994. Pursuant to the order dated 10.1.1994, an amount of Rs.30,357.00 being the amount of commuted pension has been deposited in this Court by the first respondent. Considering that fact, while issuing rule in this matter on 14.2.1994, this Court has also directed

the registry of this Court to deposit the aforesaid amount of Rs.30,357.00 by way of fixed deposit for a period of two years in a nationalized bank. The amount was directed to be deposited within a fortnight from 14.2.1994.

Brief facts of the present petition are to the effect that the petitioner was appointed as Jr. Clerk in Taluka Panchayat, Botad on 10.3.1961; on 30.9.1990, the petitioner was retired on superannuation from the post of Jr. Clerk; by order dated 13.11.1990, provisional pension and gratuity was sanctioned from 1.10.1990 to 1.10.1991; thereafter, again, by order dated 18.1.1992, provisional pension was sanctioned upto 39.9.1992 wherein it has clearly been provided that the provisional pension is sanctioned upto 30.9.1992 or upto the date on which the final pension is sanctioned, whichever is earlier. According to the petitioner, in the said order, it has been mentioned that because of some administrative reasons, the final pension has not been decided. According to the petitioner, no departmental inquiry has been initiated or pending against the petitioner. It is the grievance of the petitioner that though various oral and written representations for sanctioning his final pension were made, same were not considered by the respondents. That on 18.9.1991, the petitioner made representation to the District Development Officer and the Taluka Development Officer and the Account Officer of Bhavnagar but the petitioner has not received any reply so far and, therefore,the petitioner has approached this Court by way of this petition claiming pensionary benefits from the respondents with interest.

Respondents Nos. 1 and 2 have filed affidavit in reply on 10th April, 1992 and 20th January, 1994. The petitioner has filed rejoinder on 14th December, 1993.

The contention raised by the respondent No.1 and 2 is to the effect that it is true that the petitioner has retired on 30.9.1990 from the Taluka Panchayat, Botad. The deponent who filed affidavit in reply on behalf of the respondent No.1 and 2 has submitted that since the finalization of pension amount was likely to be delayed, provisional pension of Rs.565.00 p.m. as well as provisional amount of gratuity of Rs.16,920.34 ps. was fixed by office order No. DP.ACC.Pen.Provident Fund.16/91 dated 9.1.1991 and since then, the petitioner has been receiving the amount of pension from the Sub Treasury Office, Botad. So far as the amount of provident fund is concerned, the deponent has submitted that the amount standing to the credit of the petitioner

has been directed to be paid by an office order No. DP:ACC:GPF858/90/88 dated 27.12.1990 and the same has been paid by the Taluka Panchayat, Botad under Voucher No. 3232 dated 8.2.1991. The deponent has further submitted that all other terminal benefits including the leave salary of the unavailed privilege leave amounting to Rs.17,736.00 has been paid to the petitioner by the Taluka Panchayat under Voucher No. 2161 dated 29.10.1990. The deponent has submitted that so far as the commuted pension amount is concerned, the petitioner is entitled to the same only after the pension case is finalized. As regards the amount of insurance, the deponent has submitted that the said amount has been sanctioned on 31.8.1991 and sent to the Taluka Panchayat, Botad. However, said amount has not been paid on account of the fact of recovery due to shortage of books in the library. As regards delay caused in sanctioning the final pension, the deponent has given reasons in para 6 of the reply which are reproduced as under :

"a) The petitioner had in fact joined the service on 10.3.61 and superannuated on 30.9.90 and as the petitioner had joined the services at a later age, as per the rules,his appointment was required to be regularized, the powers for which are not with DDO but with the Government and the said late service was regularized by the Government in its Panchayat and Rural Housing Department, Gandhinagar by a letter No. NJS/2391/2796/KH dated 25.9.91.

b) The petitioner was charge sheeted on 1.10.90. The petitioner was charge sheeted for in respect of audit querries for the year 85-86 for the loss caused to the Panchayat on account of purchase of tyre tube for tanker No. GRD/4739 and, therefore, the certificate as per annexure VII to pension papes to the effect that no departmental enquiries are pending against an employee could not be given. The petitioner was allotted the quarter during the service and in addition to that, had also unauthorizedly occupied one more quarter and had not vacated both the quarters and remained in unauthorized occupation for a period of more than one year and, therefore, the petitioner has become liable to pay the economic and market rent for the period of such unauthorized occupation and for that purpose, an order was passed on 17.1.1991 for directing the petitioner to pay Rs.12,116.25 ps. as rent upto 31.1.91 and the said amount has

yet not been paid by the petitioner. The petitioner had also given an undertaking along with the pension papers to the effect that the amount recoverable from the petitioner shall be deductible from the amount of pension and gratuity and, therefore, it is necessary for the petitioner to make the position clear in this regard.

c) The petitioner was in charge of Library assets and even after retirement for a sufficient long period of more than 8 months, the charge was not handed over to the authorities by the petitioner and, therefore, reminder was also given on 3.6.91 with an information that in case of failure to hand over the charge, pension papers will not be processed further and it was only in October, 1991 that the charge was handed over. At that time also, certain items were missing and the list of amount recoverable from the petitioner has also been prepared and the said amount has also not been paid by the petitioner. Under these circumstances, the period of provisional pension payable to the petitioner has been extended upto 30.9.1992."

In view of these contentions and objections raised by the respondents no.1 and 2, Local Fund Accounts Office has been joined as party respondent No.3 to the present petition. The second affidavit in reply has been filed by the Town Development Officer, Botad wherein details have been given by the deponent of the affidavit in reply that the petitioner was initially allotted one quarter and as he has not vacated the same after his retirement, he was informed by letter dated 17th January, 1991 in which also it was mentioned that the amount of rent payable upto 31st December, 1990 is recoverable with further intimation that after expiry of six months the amount recoverable from the petitioner shall be at the market rate of rent; said letter was sent by Registered Post A.D. and the same has been entered in the despatch register on 17.1.1991 itself. However, there was no response to the same from the petitioner. The deponent has further submitted that the petitioner had occupied another quarter which was adjacent to the quarter allotted to him legally. According to the deponent, with a view to legalize the illegal occupation, the petitioner who was at the relevant time working as pay bill clerk had started deducting rent for the unauthorized quarter from the month of August, 1989 and as this came to the notice, he was immediately given notice in the month of

February, 1990 by which the petitioner was informed to vacate the unauhtorized quarter failing which he would be liable to pay market rent. It was also informed to the petitioner that if he was allotted the said quarter in a lawful manner, he should produce documentary proof about the same. Said notice was served on the petitioner personally who has signed in the despatch book. However, there was no response from the petitioner to the same. Not only that, even by letter dated 4.2.1991, the petitioner was reminded of recovery as well as vacating the quarter. The deponent has also submitted that as per the record, the pension papers were sent to the office of the respondent no.3 on 9.11.1990 who raised querry about the recovery by letter dated 30.9.1992 and instructed to recover from the petitioner and informed to submit the pension papers thereafter. It has also been submitted that thereafter, the petitioner has been informed about the same by letter dated 21.10.1992 which has been served personally which has been signed by the petitioner. As there was no response, again, by letter dated 30.11.1992, the petitioner was informed about the same and then by letter dated 15.1.1993. It has also been submitted that again the petitioner was informed about the recovery by letter dated 19.3.1993 but of no avail and, therefore, it is not within the means of the respondents to finalize the pension papers as the petitioner himself is not cooperating. The deponent has also submitted that even the petitioner himself has given an undertaking to pay for the recovery by undertaking dated 14.9.1990. The deponent has submitted that thus, because of the sheer non-cooperation on the part of the petitioner, pension papers could not be finalized.

Respondents NO.1 and 2 have produced certain relevant records and communication between the petitioner and respondents No.1 & 2, alongwith the reply which are on record of this petition. Page 44 is the undertaking given by the petitioner on 8.2.1991. It is addressed to the Taluka Development Officer wherein it is mentioned that till that date, whatever recovery due and payable by the petitioner has been paid by the petitioner total of which comes to Rs.4963.45 ps. The petitioner has clarified in the said letter that now, hereinafter, any recovery is there against the petitioner, same can be deducted from the pensionary benefits of the petitioner. This letter was received by the Taluka Development Officer. Necessary endorsements have also been made in the said letter. Page 45 is the Annexure which points out the total amount due against the petitioner towards the rent recovery, dead stock recovery, library recovery, LTC Audit Recovery, total of which comes to Rs.55,780.00

which is required to be paid by the petitioner to the respondents.

The petitioner has filed rejoinder against both the replies wherein, as regards unauthorized occupation of the quarter concerned, he has pointed out that he has not been served with any notice or reminder for vacating the same; he has denied that any order much less an order dated 17.1.1991 alleged to have been passed directing the petitioner to pay a sum of Rs. 12,116.25 towards rent upto 31.1.1991 has ever been served upon him. As regards the averments made by the respondents no.1 and 2 regarding charge of the library, he has submitted that the same has been handed over in time to the respondent and the amount which was recoverable against the library claims has also been paid as suggested by the respondents. At the end of the said affidavit in rejoinder, the petitioner has submitted that as on date, no amount whatsoever is payable against such claims by him.

During the course of hearing, learned advocate Ms. Pahwa appearing for the petitioner has submitted that the petitioner has retired from service on 30th September, 1990 and more than 11 years have passed and yet the respondents have not finalized the pension papers of the petitioners. She has further submitted that if any amount is recoverable from the petitioner in respect of any legal dues by the respondents, same can be recovered by the respondents from the terminal benefits or the pensionary benefits of the petitioners. She has submitted that in view of the undertaking given by the petitioner to that effect, the respondents ought to have finalized the pension papers of the petitioner. However, inspite of these facts, the respondents have not acted upon the said two undertakings filed by the petitioner and have not finalized the pension papers of the petitioner only on the technical ground that the petitioner has not deposited the amount before the respondents. She has submitted that the reasons given by the respondents are not sufficient for justifying the delay caused in finalizing the pension papers of the petitioner which period is of 11 years. Therefore, in view of these facts, according to her submissions, the respondents are required to be directed to pay pensionary benefits to the petitioner with interest thereon from the date on which the petitioner has become entitled to get and receive such amount. She has also submitted that the amount deposited before this Court by the respondents pursuant to the orders of this Court as aforesaid is also required to be ordered to be paid to the petitioner with

whatever interest accrued thereon. She has relied upon the decision of the apex court in case of Vijay L. Mehrotra versus State of U.P. reported in J.T. 2000 (5) SC page 171 wherein the apex court has granted 18% interest on the amount of retirement benefits which has been paid by the respondents therein after delay. Relying upon the aforesaid decision, she has submitted that the respondents are required to be directed to finalize the pension papers of the petitioner within some reasonable period and also to pay interest to the petitioner on the retirement benefits in view of the delay caused by the respondents in finalizing the pension papers of the petitioner.

As against that, learned advocate Mr. Baxi appearing for the respondent has read over the affidavit in reply, para 3 in particular and has submitted that when the petitioner had retired, one departmental inquiry was pending against the petitioner and second thing was that the amount of rent required to be recovered from the petitioner was not paid by the petitioner. For the recovery, reasonable efforts were made by the respondents by correspondence referred to hereinabove but no response was given by the petitioner and no such amount has been deposited by the petitioner before the respondents and therefore, in view of that, finalization of pensionary papers of the petitioner has been delayed. According to him, ultimately, it is the duty of the respondent NO.3 to finalize the pension papers of the petitioner. Today, learned advocate Mr. Baxi has fairly submitted that after retirement of the petitioner, no departmental inquiry is pending against him and that considering the correspondence between the petitioner and respondents No. 1 and 2, there was delay on the part of respondent no.1 and 2 to finalize the pension papers and respondents no.1 and 2 were required to forward the papers to respondent No. 3 which was initially forwarded by the respondents no.1 and 2 to respondent No.3 on 9.11.1990 but after it has returned back to respondent No.1 and 2 by respondent No. 3 by letter dated 30.9.1992, it has not been forwarded back to the respondent no. 3 till this date. He has submitted that as per the letter of respondent no. 3 dated 30.9.1992, the papers were required to be forwarded back to respondent No.3 by respondents no. 1 and 2 only after the amount of recovery of rent is made by respondent NO. 1 and 2 and since the petitioner was not depositing the amount of recovery, papers were not forwarded. According to him, since the petitioner was not cooperating by making deposit of the amount of recovery, the finalization of papers has been delayed and thus, there is justification on the part of the

respondent No.1 and 2 in not forwarding the papers back to respondent no. 3 for finalization. According to him, in view of these facts, petitioner is not entitled to claim or receive any amount towards interest on the retirement benefits. He has also submitted that this Court also consider legal dues against the petitioner to be recovered by the respondents no. 1 and 2 and the respondents no. 1 and 2 may be permitted to deduct such amount of rent of quarter from the amount of retirement benefits which are due and payable to the petitioner.

Ms. Shraddhaben Trivedi, the learned Assistant Government Pleader appearing for respondent No. 3 has submitted that by letter dated 30.9.1992, pension papers of the petitioner were returned back to respondent No.1 and 2 with a request to recover first the amount of rent of quarter from the petitioner but thereafter, till this date, the respondents no.1 and 2 have not forwarded the said papers of pension back to respondent No. 3 and therefore, no further steps have been taken by respondent no.3 because of the fact that the pension papers have thereafter not been forwarded back to the office of respondent no.3 by respondent no.1 and 2 and, therefore, according to her submission, there is no delay in finalization of pension papers in so far as respondent NO.3 is concerned. She has, however, submitted that as and when the papers are forwarded by respondent No.1 and 2 to the office of respondent no.3, same shall be processed and finalized in accordance with law within some reasonable period as may be directed by this Court.

I have considered the submissions made by the learned advocates for the respective parties. It is an admitted fact that the petitioner has retired from service after completing the age of superannuation on 30.9.1990. It is not in dispute that initially the pension papers of the petitioner were forwarded by respondent no.1 and 2 to respondent no.3 on 30.11.1990 which were returned back by the respondent No.3 to respondent No. 1 and 2 in the year 1992, on 30.9.1992. For this delay in returning the pension papers by respondent No.3 to respondent NO.1 and 2, Ms. Trivedi has not been able to give any legal and valid cause. It is an admitted fact that after the pension papers were returned by respondent no.3 to respondents no. 1 and 2 on 30.9.1992 with a direction to the respondents no.1 and 2 to submit them back after effecting the recovery of amount of rent of quarter, the respondents no.1 and 2 have not returned back the papers to respondent no.3 till this date. The respondents no. 1 and 2 have sought to justify the delay on the ground that the amount of rent

was required to be recovered from the petitioner and the petitioner was not depositing the amount with the respondents and, therefore, there has been delay in finalizing the pension papers of the petitioner. In this regard, some correspondence have been referred to by the respondents for justify their stand. Necessary papers have been placed on record by respondent No. 1 and 2. However, the question required to be considered by this court is whether the respondents no.1 and 2 are entitled to appropriate and satisfy any other dues outstanding against the petitioner by deducting such amount from the retirement benefits of the petitioner or not. Recently, such question was considered by the Hon'ble Supreme Court in case of Gorakhpur University and others versus Dr. Shitla Prasad Nagendra and others reported in AIR 2001 SC 2433. From the Head Note of the said decision, it appears that the pension and other retiral benefits cannot be adjusted or appropriated for satisfying any other dues outstanding against the retired employee. In the case before the Hon'ble Supreme Court, university employee was not vacating the official quarter even after retirement. The action of the university to recover penal rent from the amount due towards retiral benefits and provident fund was held to be illegal. In paragraph 5 and 6 of the said decision, it has been held by the Hon'ble Supreme Court as under :

"Pension and gratuity are no longer matters of any bounty to be distributed by Government but are valuable rights acquired and property in their hands and any delay in settlement and disbursement whereof should be viewed seriously and dealt with severely by imposing penalty in the form of payment of interest. Withholding of quarters allotted, while in service, even after retirement without vacating the same is not a valid ground to withhold the disbursement of the terminal benefits. Such is the position with reference to amounts due towards provident fund, which is rendered immune from attachment and deduction or adjustment as against any other dues from the employee.

Moreso, when the employee was allowed to remain in occupation on receipt of the normal rent as the University authorities regularly accepted the rent at normal rates every month from the petitioner employee till the quarter was vacated. And inspite of request made for allotment of the said quarter in favour of the son of the employee who is in the service of the University, no decision seems to have been taken

> and communicated though it is now claimed in the Court proceedings that he is not entitled to this type of accommodation. Further, the facts disclosed such as the resolutions of the University resolving to waive penal rent from all the teachers as well as that of the Executive Council dated 18.7.1994 and the actual such waiver made in the case of several others cannot be easily ignored. The leghargy shown by the authorities in not taking any action according to law to enforce their right to recover possession of the quarters from the respondent or fix liability or determine the so called penal rent after giving prior show cause notice or any opportunity to him before even proceeding to recover the same from the respondents renders the claim for penal rent not only a seriously disputed or contested claim but the University cannot be allowed to recover summarily the alleged dues according to its whims in a vindictive manner by adopting different and discriminatory standards. The facts disclosed also show that it is almost one year after the vacation of the quarter and that too on the basis of certain subsequent orders increasing the rates of penal rent, the applicability of which to the employee itself was again seriously disputed and to some extend justifiably too. The university cannot be held to be entitled to recover by way of adjustment such disputed sums or claims against the pension, gratuity and provident fund amounts indisputably due and unquestionably payable to the employee. "

The apex court has also observed that the claim of the university cannot be said to be in respect of an admitted or conceded claim or sum due. Court, however, clarifies that order shall not have the effect of foreclosing the rights of the university, if any, if the university chose to workout the same, as is permissible in law.

In view of the observations made by the apex court in the aforesaid decision and considering the facts of the present case, according to the respondent no.1 and 2, the petitioner has unauthorizedly occupied the quarter and has remained in possession thereof even after his retirement and, therefore, the petitioner was bound to pay the market rent for such quarter to the respondent no.1 and 2. In his rejoinder, the petitioner has not admitted these facts. In his rejoinder, the petitioner

has, in terms, disputed these factual aspects and has pointed out that no such notice has ever been received by the petitioner from the respondent No. 1 and 2 and has specifically pointed out that no order dated 17.1.1991 has been received by the petitioner from the respondents. The respondent No.1 and 2 have placed on record a copy of the order dated 17th January, 1991 Annexure I, page 25. There is, however, nothing on record to show that this order has ever been received by the petitioner. Respondents No. 1 and 2 have placed on record signature of the petitioner in respect of receiving letter addressed to the petitioner, some of the documentary proof has been made available before this Court in respect of the other letters but in respect of the aforesaid demand order dated 17.1.1991, no proof to that effect has been produced by the said respondents before this Court and in view of the affidavit in rejoinder filed by the petitioner alleging inter alia that no such letter/order dated 17.1.1991 has been received by the petitioner, it cannot be said or assumed that the petitioner has admitted the dues. Considering this fact and also looking to the fact that once the petitioner has given undertaking to the respondents no.1 and 2 by letter dated 8th February, 1991 with a request to recover the amount if any is due against the petitioner from the pensionary benefits, the respondents ought not to have waited for the actual recovery from the petitioner and ought to have informed respondent No.3 that the petitioner has given undertaking and on the basis of the said undertaking, whatever amount due and payable by the petitioner towards the rent etc. could be recovered from his pensionary benefits but though the petitioner had given such undertaking, no such efforts were made to finalize the pension papers of the petitioner on the basis of the said undertaking. However, in view of the averments made by the petitioner in the affidavit in rejoinder, in view of the coercive situation, the petitioner might have given such undertaking only with a view to see that his pension papers are finalized and he may be able to get his pension and pensionary benefits at the earliest. Giving of such an undertaking does not mean that he has admitted the dues as alleged. However, inspite of such undertaking given by the petitioner, the respondents have not acted on the said undertaking and have not finalized the pension papers of the petitioner. After receipt of such undertaking from the petitioner on 8th February, 1991, the respondents no.1 and 2 to ought to have forwarded the papers back to respondent No.3. Therefore, one fact is very much clear that the petitioner who has retired from service after superannuation on 30.9.1990 has not received his pension

and pensionary benefits till this date and his pension papers have still not been finalized. Respondent No.3 has consumed time in scrutinizing the papers for more than one year as stated above and has returned the papers back to respondent no.1 and 2 on 30th September, 1992 with an instruction to the respondents no.1 and 2 to recover the amount of rent from the petitioner first and thereafter to forward the papers to respondent No. 3. All these are the facts which are not disputed either by respondents no.1 & 2 or by respondent No. 3. In view of these undisputed facts between the parties, pension papers which were sent by respondent no. 1 and 2 to respondent no.3 on 9.11.1990 were received back by respondent no.1 and 2 from respondent no.3 by letter dated 30.9.1992 with an instruction to recover the amount from the petitioner and then to submit the pension papers.

In view of these facts, after receiving letter dated 30.9.1992 from the respondent No.3, what steps were taken by the respondents NO.1 and 2 for recovering the amount from the petitioner ? As per the affidavit in reply, two letters were sent by the respondent no.1 and 2, one of which is dated 15.1.1993 and the second one is dated 19th March, 1993. On both the occasions, according to the respondent no. 1 and 2, demand was raised by them before the petitioner to pay the said amount of recovery of quarter rent but no response has been given but as stated above, respondents no.1 and 2 ought to have brought it before the respondent no.3 that they have received letter/undertaking dated 8th February, 1991 which was given by the petitioner and ought to have brought it to the respondent no.3 that the petitioner is prepared and has no objection if the amount of recovery is deducted from the pensionary benefits of the petitioner but nothing in that direction has been done by respondent no.1 and 2. It can, therefore, be said that no efforts have been made by respondents no.1 and 2 after receiving letter from respondent No.3 in the year 1992 on 30.9.1992 alongwith which, pension papers were returned back by respondent no.3 to respondent No.1 and 2. Thus, no effective steps have been taken except two letters sent by respondents no.1 and 2 as stated earlier and no sincere efforts were made to finalize the pension papers of the petitioner by forwarding the same to respondent NO.3 for effecting recovery on the basis of the undertaking given by the petitioner. Therefore, there is clear delay on the part of respondent No.1 and 2 in not taking effective steps for finalizing the pension papers of the petitioner by forwarding the same after satisfying the remarks made by respondent no.3 within reasonable

period. There is also delay on the part of respondent No.3 in scrutinizing the pension papers of the petitioner which were received by respondent no.3 from respondents no.1 and 2 initially on 9.11.1990. After scrutinizing these papers from 9.11.1990, the respondent no.3 returned back the pension papers on 30.9.1992 i.e. after about more than one and half year, papers were returned by respondent No.3. There is, therefore, no justification to continue the demand of recovery of rent from the petitioner and the respondents are not justified in withholding the finalization of pension papers of the petitioner under the pretext of recovery of quarter rent. Such an approach and attitude of the respondents No.1 and 2 as well as respondent No.3 being the State Authorities cannot be tolerated. In view of these facts, since the respondents no.1 and 2 have not taken the effective steps which were required to be taken by them after receiving the pension papers back from respondent no.3 and since they are not justified in withholding the pension papers of the petitioner under the pretext of recovery of quarter rent allegedly due and payable by the petitioner, there is gross delay and inaction on their part and, therefore, in view of these peculiar facts, according to my opinion, the petitioner is entitled to interest on such pensionary benefits from the respondents from the date on which he has become entitled for such payment. According to my opinion, if the petitioner would have immediately been paid his retiral benefits and pension by immediately finalizing his pension papers, he would have utilized the said amount for his requirement or would have invested the said amount for earning something to meet his future requirements and, therefore, according to my opinion, the petitioner is entitled to have interest at the rate of 18% p.a. from the date on which he has become entitled for such payment till actual realization thereof.

In view of the above discussion, according to my opinion, the petitioner is entitled to get pensionary benefits from the date on which he has become entitled for such payment with 18 per cent per annum. Accordingly, the respondent no.1 and 2 are directed to immediately forward the pension papers of the petitioner to respondent No.3 within fifteen days from today. As and when such pension papers of the petitioner are received by respondent No.3 from petitioner no.1 and 2, it is directed to respondent no. 3 to immediately finalize the pension papers of the petitioner without any delay within one week from the date of receipt of such pension papers of the petitioner from respondent no.1 and 2. It is also directed to all the respondents herein to

pay to the petitioner the amount of pensionary benefits without any deduction and with interest thereon at the rate of 18 % p.a. from the date on which the petitioner has become entitled for such payment till actual realization thereof. Such an amount is required to be paid by the respondents to the petitioner together with interest thereon as stated above within three months from the date of finalization of pension papers of the petitioner by respondent no.3.

As per order dated 14.2.1994 passed by this Court while admitting this petition, registry of this Court was directed to deposit an amount of Rs.30357.00 in any nationalized bank which amount was deposited before this Court by the respondents as commuted pension of the petitioner. As per this Court's order dated 14.2.1994, said amount was ordered to be invested in any nationalized bank for a period of two years which was renewed from time to time. Now, Registry is directed to pay the said amount to the petitioner with interest accrued thereon by account payee cheque drawn in favour of the petitioner, immediately.

It is made clear that the respondent no.1 and 2 are not entitled to make recovery of any amount whatsoever from the retirement benefits including pensionary benefits of the petitioner. It is, however, made clear that this order will not have the effect of foreclosing the rights of the respondents, if any, if the respondents work out the same as is permissible in law. Petition is accordingly allowed. Rule is made absolute in terms indicated hereinabove with no order as to costs.

5.12.2001. (H.K. Rathod,J.)
Vyas